IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

CUSTOMS APPEAL NO.55 OF 2007

The Commissioner of Custome,
C.S.I.,Airport, Mumbai .. Appellant.

Versus

Shri Essa Ismail Merchant & Anr. .. Respondents.

Mr.Y.S. Shinde for the appellant.

Mr.N.D. George for the respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 13TH SEPTEMBER, 2007.

P.C. :

1. Heard learned counsel for the parties. The Tribunal relying on the judgment of this Court in Commissioner of Customs (Prev.) V/s. Shree Ganesh Enterprises [2006 (199) E.L.T. 208 (Bom)] held that the revenue has not discharged the onus to prove tainted character of the goods. In the instant case from the order of the Commissioner of Appeals, we find that the evidence led by the respondents herein was considered and relying upon said evidence and in absence of any evidence to the contrary, finding of fact was recorded by the Commissioner (Appeals).

2. In the appeal memo before this Court, main ground raised was that the appeals have not accepted the judgment of this Court in Shree Ganesh

Enterprises (supra). On behalf of the respondents, learned counsel draw our attention to the fact that the SLP preferred against the judgment of this Court has been dismissed. The grounds, therefore, raised will not be available.

3. Considering that the finding of fact recorded, questions of law as framed would not arise. Consequently, appeal is dismissed.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)